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8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke  
12 Probation Against,

13 **LYLE WESLEY ROYER, M.D.**  
3222 La Cienega Avenue #205  
14 Culver City, CA 90232

15 **Physician's and Surgeon's**  
**Certificate No. C 34553,**

16 Respondent.

Case No. 800-2016-024236

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

17  
18 FINDINGS OF FACT

19 1. On or about October 21, 2016, Complainant Kimberly Kirchmeyer, in her official  
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
21 Affairs, filed Petition to Revoke Probation No. 800-2016-024236 against Lyle Wesley Royer,  
22 M.D. (Respondent) before the Medical Board of California.

23 2. On or about September 11, 1972, the Medical Board of California (Board) issued  
24 Physician's and Surgeon's Certificate No. C 34553 to Respondent. The Physician's and  
25 Surgeon's Certificate expired on July 31, 2016, and has not been renewed. A true and correct  
26 copy of a certification of licensure for Respondent's Physician's and Surgeon's Certificate  
27 Number C 34553 is attached hereto as Exhibit A.

28 3. On or about October 21, 2016, an employee of the Complainant Agency, served by

1 Certified Mail, a copy of the Petition to Revoke Probation No. 800-2016-024236, Statement to  
2 Respondent, Notice of Defense form (2 copies), Request for Discovery, and Government Code  
3 sections 11507 .5. 11507 .6. and 11507. 7 to Respondent's address of record with the Board. A  
4 copy of the Petition to Revoke Probation, the related documents, and Declaration of Service are  
5 attached as Exhibit B, and are incorporated herein by reference.

6 4. Service of the Petition to Revoke Probation was effective as a matter of law under the  
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about December 7, 2016, a probation inspection with the Board met with  
9 Respondent and he acknowledged that he received the Petition to Revoke Probation and  
10 accompanying documents. A declaration of the probation inspector is attached as Exhibit C, and  
11 is incorporated herein by reference.

12 6. Business and Professions Code section 118 states, in pertinent part:

13 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
14 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
15 order of a court of law, or its surrender without the written consent of the board, shall not, during  
16 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
17 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
18 provided by law or to enter an order suspending or revoking the license or otherwise taking  
19 disciplinary action against the license on any such ground.”

20 7. Government Code section 11506 states, in pertinent part:

21 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
22 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
23 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
24 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

25 8. Respondent failed to file a Notice of Defense within 15 days after service upon him  
26 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of  
27 Petition to Revoke Probation No. 800-2016-024236.

28 9. California Government Code section 11520 states, in pertinent part:

“(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent’s express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.”

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in the exhibits attached hereto, finds that the allegations in Petition to Revoke Probation No. 800-2016-024236 ("Petition") are true. The Board further finds that Respondent's Physician's and Surgeon's Certificate is subject to discipline in that he violated the terms of his probation as stated in the Petition and engaged in unprofessional conduct.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Lyle Wesley Royer, M.D. has subjected his Physician's and Surgeon's Certificate No. C 34553 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the violations alleged in the Petition to Revoke Probation.

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1 ORDER

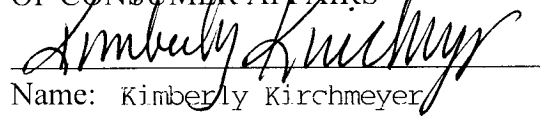
2 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C 34553, heretofore  
3 issued to Respondent LYLE WESLEY ROYER, M.D., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
5 written motion requesting that the Decision be vacated and stating the grounds relied on within  
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on February 10, 2017.

9 It is so ORDERED January 11, 2017

10 FOR THE MEDICAL BOARD OF  
11 CALIFORNIA, DEPARTMENT  
12 OF CONSUMER AFFAIRS

13   
Name: Kimberly Kirchmeyer

14 Title: Executive Director  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Oct 21 20 16  
BY D. Richard S ANALYST

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BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

**LYLE WESLEY ROYER, M.D.**  
3222 La Cienega Avenue, Apt. 205  
Culver City, CA 90232

Physician's and Surgeon's  
Certificate No. C34553

Respondent.

Case No. 800-2016-024236

**P E T I T I O N T O R E V O K E**  
**P R O B A T I O N**

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation (hereinafter, "Petition") solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about September 11, 1972, the Board issued Physician's and Surgeon's Certificate Number C34553 to Lyle Wesley Royer, M.D. (Respondent). This Physician's and Surgeon's Certificate was in full force and effect at times relevant to the charges brought herein, but expired on July 31, 2016.

**CURRENT DISCIPLINE**

3. In a disciplinary action entitled "In the Matter of Accusation Against Lyle Wesley

1 Royer, M.D.," Case No. 800-2015-011162, the Medical Board of California issued a Decision  
2 and Order, effective May 11, 2016 (a true and correct copy of which is attached hereto as Exhibit  
3 A and incorporated herein as if fully set forth, (the "Decision and Order")), in which  
4 Respondent's California Physician's and Surgeon's certificate number C34553 was revoked.<sup>1</sup>  
5 The revocation, however, was stayed and Respondent's Physician's and Surgeon's Certificate  
6 was placed on probation for a period of seven (7) years with special terms and conditions, which  
7 include but are not limited to: the abstention from alcohol and from use of controlled substances;  
8 biological fluid testing; psychotherapy; and, a prohibition against the solo practice of medicine.

### 9 JURISDICTION

10 4. This Petition is brought before the Medical Board of California (Board), Department  
11 of Consumer Affairs, under the authority of the following laws. All section references are to the  
12 Business and Professions Code unless otherwise indicated.

13 5. Section 22 of the Code, states:

14 "Board," as used in any provision of this code, refers to the board in which the  
15 administration of the provision is vested, and unless otherwise expressly provided, shall include  
16 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,'  
17 'program,' and 'agency.'"

18 6. Section 315.4 of the Code, states in pertinent part:

19 "(a) A board, as described in Section 315, may adopt regulations authorizing the board to  
20 order a licensee on probation or in a diversion program to cease practice for major violations and  
21 when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the  
22 uniform and specific standards adopted and authorized under Section 315.

23 "..."

24 "(c) A cease practice order under this section shall not constitute disciplinary action."

25 7. Section 2227 of the Code provides that a licensee who is found guilty under the  
26 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed

27 \_\_\_\_\_  
28 <sup>1</sup> Respondent admitted to the allegations in the accusation.

1 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
2 action taken in relation to discipline as the Board deems proper.

3 8. Section 2234 of the Code, states:

4 “The board shall take action against any licensee who is charged with unprofessional  
5 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
6 limited to, the following:

7 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
8 violation of, or conspiring to violate any provision of this chapter.

9 “(b) Gross negligence.

10 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
11 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
12 the applicable standard of care shall constitute repeated negligent acts.

13 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
14 for that negligent diagnosis of the patient shall constitute a single negligent act.

15 “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
16 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
17 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the  
18 applicable standard of care, each departure constitutes a separate and distinct breach of the  
19 standard of care.

20 “(d) Incompetence.

21 “(e) The commission of any act involving dishonesty or corruption which is substantially  
22 related to the qualifications, functions, or duties of a physician and surgeon.

23 “(f) Any action or conduct which would have warranted the denial of a certificate.

24 “(g) The practice of medicine from this state into another state or country without meeting  
25 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
26 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
27 proposed registration program described in Section 2052.5.  
28

1       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
2 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
3 who is the subject of an investigation by the board.”

#### 4                   **FACTUAL ALLEGATIONS / PROBATION VIOLATIONS**

5       9.     On or about May 11, 2016, the Board issued its Disciplinary Order placing  
6 Respondent’s Physician’s and Surgeon’s certificate under probation with terms and conditions  
7 that included seven (7) years of probation, and requirements that he undergo psychotherapy and  
8 biological fluid testing. Respondent’s discipline arose after the Board filed an Accusation which  
9 alleged, among other things, that Respondent suffered from mental and physical impairment  
10 based upon the evaluations of two experts who each found that Respondent could not practice  
11 medicine in a safe manner. At his interview with an investigator with the Department of  
12 Consumer Affairs, Respondent admitted to a history of drinking alcohol and to current use of  
13 Valium (diazepam), a benzodiazepine and a California Schedule IV controlled substance, which  
14 he obtained from a “friend;” and Respondent further explained that although he had been living in  
15 an apartment for the past few months, prior to that he had been homeless; and that when he was  
16 arrested for public intoxication in September 2004, Respondent was spending the night in his car.  
17 Respondent also acknowledged that at the time of his DUI arrest in 1990, he had consumed  
18 several alcoholic drinks before driving home. He also explained that he was an aspiring writer  
19 and that “writers drink,” and that he had started to drink heavily in the past when he left the full-  
20 time practice of radiology to focus on writing. He was also drinking heavily in the year prior to  
21 his November 2014 DUI arrest.

22       10.    Respondent’s ability to practice medicine safely is impaired because he is not abiding  
23 by his terms of probation monitoring and his conditions are untreated. Respondent has materially  
24 failed to comply with the terms of his probation. Respondent’s violations of the terms of his  
25 probationary order with the Board are willful and continuing.

26       11.    On or about May 11, 2016, D.G., an inspector with the Board’s probation unit  
27 conducted a probation intake interview with Respondent at the Health Quality Investigations  
28 Unit’s Glendale District Office. During this interview, Respondent and D.G. reviewed the terms

1 and conditions in his Disciplinary Order and the required time frames of compliance. At the  
2 conclusion of the interview, Respondent signed the Acknowledgment of Decision and Quarterly  
3 Declaration Due Dates form. However, Respondent has failed to comply with the terms and  
4 conditions of probation as set forth below:

5 **CONDITION NO. 4--PSYCHOTHERAPY**

6 12. Condition number 4 of the Disciplinary Order requires that within 60 calendar days of  
7 its effective date, Respondent submit to the Board, the name and qualifications of a California-  
8 licensed board certified psychiatrist or a licensed psychologist for prior approval, and that after  
9 approval, Respondent receive ongoing psychotherapy treatment until the Board deems that no  
10 further psychotherapy is necessary. On or about May 11, 2016, a Board probation inspector  
11 advised Respondent to submit to the Board by July 10, 2016, the name and qualifications of a  
12 California board-certified psychiatrist or a licensed psychologist for approval. On or about May  
13 13, 2016, the Board mailed a follow-up letter to Respondent regarding the requested information.  
14 However, as of September 16, 2016, Respondent has failed to comply with this condition.

15 **CONDITION NO. 5--MEDICAL EVALUATION AND TREATMENT**

16 13. Condition number 5 of the Disciplinary Order requires that within 30 calendar days of  
17 its effective date, and on a periodic basis thereafter as may be required by the Board, Respondent  
18 undergo a medical evaluation by a Board-appointed physician who shall furnish a medical report  
19 to the Board; and that following the evaluation, Respondent comply with all restrictions or  
20 conditions recommended by the evaluating physician within 15 calendar days after being notified  
21 by the Board. On or about May 11, 2016, a Board probation inspector advised Respondent to  
22 undergo a medical evaluation by June 10, 2016, and that he must comply with all restrictions and  
23 recommendations following the evaluation within 15 calendar days of notice. On or about June  
24 2, 2016, Respondent underwent the evaluation by Dr. L.D. who recommended that  
25 Respondent undergo further testing. On or about July 7, 2016, the Board advised Respondent  
26 in writing of the results of Dr. L.D.'s evaluation and that further testing was recommended.  
27 On or about July 26, 2016, Dr. L.D. amended his report stating that Respondent must undergo  
28 a psychiatric evaluation to assess his level of dementia and that he must complete

1 neuropsychological testing, and on that same date, the Board notified the Respondent in  
2 writing that he must undergo a psychiatric evaluation to assess his level of dementia and that  
3 he must complete neuropsychological testing. Respondent was also directed in writing to  
4 attend a psychological evaluation by Dr. S.D. on August 11, 2016. However, Respondent  
5 failed to attend that evaluation. As of September 16, 2016, Respondent has failed to comply with  
6 Condition 5 of the Disciplinary Order.

7 **CONDITION NO. 7--CLINICAL DIAGNOSTIC EVALUATION AND REPORTS**

8 14. Condition number 7 of the Disciplinary Order requires that within 30 calendar days of  
9 its effective date, and on a periodic basis thereafter as may be required by the Board, Respondent  
10 undergo and complete a clinical diagnostic evaluation, including any and all testing deemed  
11 necessary, by a Board-appointed physician who shall furnish a written report to the Board  
12 including a determination about whether Respondent is safe to practice medicine. Dr. L.D.  
13 conducted this evaluation as well and his determinations are set forth in paragraph 13 above.

14 **CONDITION NO. 9--BIOLOGICAL FLUID TESTING**

15 15. Condition number 9 of the Disciplinary Order requires that Respondent immediately  
16 submit to biological fluid testing, including between 52 to 104 random tests during the first year  
17 of probation. On or about May 2, 2016, the Board mailed a letter to Respondent advising him to  
18 enroll with FirstLab for biological fluid testing by May 11, 2016. Further, on or about May 11,  
19 2016, a Board probation inspector advised Respondent at his intake interview that he was  
20 required to immediately submit to biological fluid testing and make daily contact with the testing  
21 program. On or about July 6, 2016, the Board mailed a letter to Respondent advising him that he  
22 is in violation of this probation condition, "Biological Fluid Testing." On or about August 16,  
23 2016, a Board inspector learned that Respondent's account with the Board's biological fluid  
24 testing program vendor, FirstLab, was suspended due to non-payment. As of September 16,  
25 2016, Respondent continues to be in violation of Condition Number 9 of the Disciplinary Order.

26 **CONDITION NO. 10--SUBSTANCE ABUSE SUPPORT GROUP MEETINGS**

27 16. Condition number 10 of the Disciplinary Order requires that Respondent submit to  
28 the Board, the name of a substance abuse support group which he shall attend for the duration of

1 probation, and that Respondent attend substance abuse support group meetings at least once per  
2 week, or as ordered by the Board. On or about May 11, 2016, a Board probation inspector  
3 advised Respondent at his intake interview that he was required to submit to the Board, the name  
4 of a substance abuse support group and that he was required to attend those meetings for the  
5 duration of his probation. On or about June 10, 2016, the Board's probation inspector received a  
6 letter from Respondent stating that his support groups were: Promises Rehab located at 2045  
7 South Barrington Avenue, Los Angeles, CA; and Matrix Substance Abuse Program located at  
8 1849 Sawtelle Boulevard, Suite 100, Los Angeles, CA. On or about August 17, 2016, the  
9 Board's probation inspector contacted Matrix and provided them with an authorization for  
10 Release of Psychiatric Information signed by Respondent. However, their Director responded by  
11 stating that Respondent was not one of their clients. In addition, on or about August 17, 2016, the  
12 Board's probation inspector contacted Promises Treatment Center and provided them with an  
13 authorization for Release of Psychiatric Information form signed by Respondent. However, their  
14 Director in response, stated that Respondent was not one of their clients. As of September 16,  
15 2016, Respondent continues to be in violation of Condition Number 10 of the Disciplinary Order.

#### 16 **CONDITION NO. 12--FOR SUBSTANCE ABUSING LICENSEES**

17 17. Condition 12 of the Disciplinary Order sets forth various probation violations. On or  
18 about May 11, 2016, the Board advised Respondent that if he failed to fully comply with any term  
19 or condition of probation, it is a violation of his probation. Respondent has failed to comply with  
20 the following conditions of his probation: 4, 5, 7, 9, 10, 12, 16, 17, 18; and 21.

#### 21 **CONDITION NO. 16--QUARTERLY DECLARATIONS**

22 18. Condition number 16 of the Disciplinary Order requires that Respondent submit to  
23 the Board, no later than 10 calendar days after the end of the preceding quarter, quarterly  
24 declarations under penalty of perjury on forms provided by the Board, stating whether he has  
25 been in compliance with all the conditions of probation. On or about May 11, 2016, the Board  
26 advised Respondent at his intake interview that he was required to submit to the Board, quarterly  
27 declarations, including their due dates. On or about May 13, 2016, the Board sent to Respondent,  
28 a follow-up letter outlining the quarterly declaration due dates. On or about May 16, 2016, the

1 Board mailed a letter to Respondent advising him to send to the Board all quarterly declarations.  
2 On or about July 18, 2016, the Board mailed a letter to Respondent advising him that his  
3 Quarterly Declaration for the second quarter of 2016 has not been received. As of September 16,  
4 2016, Respondent has failed to comply with Condition 16 of the Disciplinary Order.

5 **CONDITION NO. 17--GENERAL PROBATION REQUIREMENTS**

6 19. Condition number 17 of the Disciplinary Order requires Respondent to comply with  
7 certain conditions of probation including, informing the Board of any address changes; restricting  
8 him on where he can practice; requiring him to maintain a current and renewed California  
9 physician's and surgeon's license; and informing the Board of any lengthy travel outside of  
10 California. On or about May 11, 2016, the Board advised Respondent at his intake interview that  
11 he was required to comply with these conditions. Nonetheless, as of September 16, 2016,  
12 Respondent's physician's and surgeon's certificate is expired and invalid.

13 **CONDITION NO. 18--INTERVIEW WITH THE BOARD**

14 20. Condition number 18 of the Disciplinary Order requires that Respondent make  
15 himself available for interviews with the Board. On or about May 11, 2016, the Board advised  
16 Respondent at his intake interview that he was required to comply with this condition. On or  
17 about August 4, 2016, a Board probation inspector spoke to Respondent and followed up the  
18 conversation with an email to him informing him that a probation interview was scheduled for  
19 August 12, 2016. However, Respondent failed to show up for this scheduled probation interview.  
20 Later, on or about August 12, 2016, the Board's probation inspector emailed Respondent  
21 instructing him to call her to reschedule the interview. Nonetheless, as of September 16, 2016,  
22 Respondent has not rescheduled the interview, and is not in compliance with this condition.

23 **CONDITION NO. 21--VIOLATION OF PROBATION**

24 21. Condition number 21 of the Disciplinary Order provides that it is a violation of  
25 probation to violate any term or condition of probation. As of September 16, 2016, Respondent is  
26 in violation of his probation conditions 4, 5, 7, 9, 10, 12, 16, 17, 18, and 21.

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply: Psychotherapy)**

3 22. Respondent is subject to disciplinary action under Section 2227, in that he violated  
4 Term and Condition Number 4 (Psychotherapy) of his probation in the Decision and Order. The  
5 facts are circumstances are set forth in paragraph 9 through 21, inclusive above, which are  
6 incorporated herein by reference as if fully set forth.

7 **SECOND CAUSE TO REVOKE PROBATION**

8 **(Failure to Comply: Medical Evaluation and Treatment)**

9 23. Respondent is subject to disciplinary action under Section 2227, in that he violated  
10 Term and Condition Number 5 (Medical Evaluation and Treatment) of his probation in the  
11 Decision and Order. The facts are circumstances are set forth in paragraph 9 through 21,  
12 inclusive above, which are incorporated herein by reference as if fully set forth.

13 **THIRD CAUSE TO REVOKE PROBATION**

14 **(Failure to Comply: Clinical Diagnostic Evaluations and Reports)**

15 24. Respondent is subject to disciplinary action under Section 2227, in that he violated  
16 Term and Condition Number 7 (Clinical Diagnostic Evaluation and Reports) of his probation in  
17 the Decision and Order. The facts are circumstances are set forth in paragraph 9 through 21,  
18 inclusive above, which are incorporated herein by reference as if fully set forth.

19 **FOURTH CAUSE TO REVOKE PROBATION**

20 **(Failure to Comply: Biological Fluid Testing)**

21 25. Respondent is subject to disciplinary action under Section 2227, in that he violated  
22 Term and Condition Number 9 (Biological Fluid Testing) of his probation in the Decision and  
23 Order. The facts are circumstances are set forth in paragraph 9 through 21, inclusive above,  
24 which are incorporated herein by reference as if fully set forth. In addition, Respondent failed to  
25 check into the biological fluid testing program on the following dates in 2016: June 24, 26, 27,  
26 28, 29, 30; and July 1, 2, 3, 4, and 5. In addition, due to his non-compliance, Respondent did not  
27 comply with the following dates in 2016 which required the collection of biological fluid  
28 specimens: June 25, June 29 and June 30.

1 **FIFTH CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply: Substance Abuse Support Group Meetings)**

3 26. Respondent is subject to disciplinary action under Section 2227, in that he violated  
4 Term and Condition Number 10 (Substance Abuse Group Meetings) of his probation in the  
5 Decision and Order. The facts are circumstances are set forth in paragraph 9 through 21,  
6 inclusive above, which are incorporated herein by reference as if fully set forth.

7 **SIXTH CAUSE TO REVOKE PROBATION**

8 **(Failure to Comply: Conditions for Substance Abusing Licensees)**

9 27. Respondent is subject to disciplinary action under Section 2227, in that he violated  
10 Term and Condition Number 12 (Conditions for Substance Abusing Licensees) of his probation  
11 in the Decision and Order. The facts are circumstances are set forth in paragraph 9 through 21,  
12 inclusive above, which are incorporated herein by reference as if fully set forth.

13 **SIXTH CAUSE TO REVOKE PROBATION**

14 **(Failure to Comply: Quarterly Declarations)**

15 28. Respondent is subject to disciplinary action under Section 2227, in that he violated  
16 Term and Condition Number 16 (Quarterly Declarations) of his probation in the Decision and  
17 Order. The facts are circumstances are set forth in paragraph 9 through 21, inclusive above,  
18 which are incorporated herein by reference as if fully set forth. In addition, on or about July 18,  
19 2016, a Board probation inspector sent a letter to Respondent notifying him that he is out of  
20 compliance with this probation condition; namely that he failed to timely send to the Board his  
21 quarterly declaration for the second quarter of 2016.

22 **SEVENTH CAUSE TO REVOKE PROBATION**

23 **(Failure to Comply: General Probation Requirements)**

24 29. Respondent is subject to disciplinary action under Section 2227, in that he violated  
25 Term and Condition Number 17 (General Probation Requirements) of his probation in the  
26 Decision and Order. The facts are circumstances are set forth in paragraph 9 through 21,  
27 inclusive above, which are incorporated herein by reference as if fully set forth.

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1 **EIGHTH CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply: Interview with the Board)**

3 30. Respondent is subject to disciplinary action under Section 2227, in that he violated  
4 Term and Condition Number 18 (Interviews with the Board) of his probation in the Decision and  
5 Order. The facts and circumstances are set forth in paragraph 9 through 21, inclusive above,  
6 which are incorporated herein by reference as if fully set forth.

7 **NINTH CAUSE TO REVOKE PROBATION**

8 **(Failure to Comply: Violation of Probation)**

9 31. Respondent is subject to disciplinary action under Section 2227, in that he violated  
10 Term and Condition Number 21 (Violation of Probation) of his probation in the Decision and  
11 Order. The facts and circumstances are set forth in paragraph 9 through 21, inclusive above,  
12 which are incorporated herein by reference as if fully set forth.

13 **DISCIPLINE CONSIDERATIONS**

14 32. To determine the degree of discipline, if any, to be imposed on Respondent,  
15 Complainant alleges that Respondent has a history of alcohol related misconduct, including.

16 33. On or about March 28, 1991, in the Superior Court for the County of Los Angeles, in  
17 proceedings entitled *People of the State of California vs. Lyle Wesley Royer*, case number  
18 90F13047, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle  
19 Code section 23152, subdivision (b). Respondent's blood alcohol content test showed a BAC of  
20 0.17 percent. He was placed on 36 months probation with terms and conditions.

21 34. The facts and circumstances surrounding the allegations in the Accusation that  
22 resulted in the Board's Decision and Order, as referenced in paragraph 9 above.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Medical Board of California issue a decision:

26 1. Revoking the probation that was granted by the Medical Board of California in Case  
27 No. 800-2015-011162 and imposing the disciplinary order that was stayed thereby;

28 2. Revoking and/or suspending Physician's and Surgeon's Certificate Number C34553,

1 issued to Lyle Wesley Royer, M.D.;

2 3. Revoking, suspending or denying approval of Lyle Wesley Royer, M.D.'s authority  
3 to supervise physician assistants, pursuant to section 3527 of the Code;

4 4. Ordering Lyle Wesley Royer, M.D. to pay the Medical Board of California, if placed  
5 on probation, the costs of probation monitoring; and

6 5. Taking such other and further action as deemed necessary and proper.

7  
8  
9 DATED: October 21, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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EXHIBIT A  
Decision Case No. 800-2015-011162

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**Lyle Wesley Royer, M.D.**

**Physician's and Surgeon's  
Certificate No. C 34553**

**Respondent**

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**Case No. 800-2015-011162**

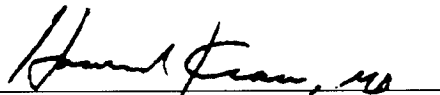
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 11, 2016.

IT IS SO ORDERED: April 11, 2016.

**MEDICAL BOARD OF CALIFORNIA**



**Howard Krauss, M.D., Chair  
Panel B**

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 EDWARD KIM  
Deputy Attorney General  
4 State Bar No. 195729  
Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-7336  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-011162

13 **LYLE WESLEY ROYER, M.D.**  
3435 Ocean Park Blvd., #107 - Box 399  
Santa Monica, CA 90405

OAH No. 2015120402

14 **Physician's and Surgeon's**  
15 **Certificate No. C34553**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical  
21 Board of California. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Edward Kim,  
23 Deputy Attorney General.

24 2. Respondent Lyle Wesley Royer, M.D. ("Respondent") is represented in this  
25 proceeding by attorney Theodore A. Cohen, whose address is: Law Offices of Theodore A.  
26 Cohen, 3550 Wilshire Blvd., Suite 1280, Los Angeles, CA 90010.

27 3. On or about September 11, 1972, the Medical Board of California issued Physician's  
28 and Surgeon's Certificate No. C34553 to Lyle Wesley Royer, M.D. (Respondent). The

1 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
2 charges brought in Accusation No. 800-2015-011162 and will expire on July 31, 2016, unless  
3 renewed.

#### 4 JURISDICTION

5 4. Accusation No. 800-2015-011162 was filed before the Medical Board of California  
6 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The  
7 Accusation and all other statutorily required documents were properly served on Respondent on  
8 January 25, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

9 5. A copy of Accusation No. 800-2015-011162 is attached as Exhibit A and  
10 incorporated herein by reference.

#### 11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and understands the  
13 charges and allegations in Accusation No. 800-2015-011162. Respondent has also carefully read,  
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
15 Disciplinary Order.

16 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
20 the attendance of witnesses and the production of documents; the right to reconsideration and  
21 court review of an adverse decision; and all other rights accorded by the California  
22 Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

#### 25 CULPABILITY

26 9. Respondent admits the truth of each and every charge and allegation in Accusation  
27 No. 800-2015-011162.

28 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to

1 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
2 Disciplinary Order below.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Medical Board of California.  
5 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
6 Board of California may communicate directly with the Board regarding this stipulation and  
7 settlement, without notice to or participation by Respondent or his counsel. By signing the  
8 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
9 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
10 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
11 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
12 action between the parties, and the Board shall not be disqualified from further action by having  
13 considered this matter.

14 12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
15 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
16 signatures thereto, shall have the same force and effect as the originals.

17 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
18 be an integrated writing representing the complete, final and exclusive embodiment of the  
19 agreements of the parties in the above-entitled matter

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following  
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C34553 issued  
25 to Respondent Lyle Wesley Royer, M.D. is revoked. However, the revocation is stayed and  
26 Respondent is placed on probation for seven (7) years on the following terms and conditions.

27 1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the  
28 practice of medicine for ninety (90 days) beginning the sixteenth (16th) day after the effective

1 date of this decision.

2 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
3 completely from the personal use or possession of controlled substances as defined in the  
4 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
5 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
6 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
7 illness or condition.

8 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
9 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
10 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
11 telephone number.

12 If Respondent has a confirmed positive biological fluid test for any substance (whether or  
13 not legally prescribed) and has not reported the use to the Board or its designee, Respondent  
14 shall receive a notification from the Board or its designee to immediately cease the practice of  
15 medicine. The Respondent shall not resume the practice of medicine until final decision on an  
16 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
17 probation shall be filed by the Board within 15 days of the notification to cease practice. If the  
18 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
19 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent  
20 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
21 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
22 shall not apply to the reduction of the probationary time period.

23 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
24 issuance of the notification to cease practice or does not provide Respondent with a hearing  
25 within 30 days of a such a request, the notification of cease practice shall be dissolved.

26 3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
27 use of products or beverages containing alcohol.

28 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall

1 receive a notification from the Board or its designee to immediately cease the practice of  
2 medicine. The Respondent shall not resume the practice of medicine until final decision on an  
3 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
4 probation shall be filed by the Board within 15 days of the notification to cease practice. If the  
5 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
6 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent  
7 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
8 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
9 shall not apply to the reduction of the probationary time period.

10 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
11 issuance of the notification to cease practice or does not provide Respondent with a hearing  
12 within 30 days of a such a request, the notification of cease practice shall be dissolved.

13 4. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
14 Respondent shall submit to the Board or its designee for prior approval the name and  
15 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
16 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
17 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
18 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
19 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

20 The psychotherapist shall consider any information provided by the Board or its designee  
21 and any other information the psychotherapist deems relevant and shall furnish a written  
22 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
23 psychotherapist any information and documents that the psychotherapist may deem pertinent.

24 Respondent shall have the treating psychotherapist submit quarterly status reports to the  
25 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric  
26 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of  
27 probation, Respondent is found to be mentally unfit to resume the practice of medicine without  
28 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the

1 period of probation shall be extended until the Board determines that Respondent is mentally fit  
2 to resume the practice of medicine without restrictions.

3 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

4 5. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the  
5 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board  
6 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician  
7 who shall consider any information provided by the Board or designee and any other information  
8 the evaluating physician deems relevant and shall furnish a medical report to the Board or its  
9 designee. Respondent shall provide the evaluating physician any information and documentation  
10 that the evaluating physician may deem pertinent.

11 Following the evaluation, Respondent shall comply with all restrictions or conditions  
12 recommended by the evaluating physician within 15 calendar days after being notified by the  
13 Board or its designee. If Respondent is required by the Board or its designee to undergo medical  
14 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the  
15 Board or its designee for prior approval the name and qualifications of a California licensed  
16 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent  
17 shall within 15 calendar days undertake medical treatment and shall continue such treatment until  
18 further notice from the Board or its designee.

19 The treating physician shall consider any information provided by the Board or its designee  
20 or any other information the treating physician may deem pertinent prior to commencement of  
21 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
22 its designee indicating whether or not the Respondent is capable of practicing medicine safely.  
23 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
24 treatment, the Board or its designee deems necessary.

25 If, prior to the completion of probation, Respondent is found to be physically incapable of  
26 resuming the practice of medicine without restrictions, the Board shall retain continuing  
27 jurisdiction over Respondent's license and the period of probation shall be extended until the  
28 Board determines that Respondent is physically capable of resuming the practice of medicine

1 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

2 Respondent shall not engage in the practice of medicine until notified in writing by the  
3 Board or its designee of its determination that Respondent is medically fit to practice safely.

4 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
5 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
6 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
7 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
8 location.

9 If Respondent fails to establish a practice with another physician or secure employment in  
10 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
11 Respondent shall receive a notification from the Board or its designee to cease the practice of  
12 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
13 practice until an appropriate practice setting is established.

14 If, during the course of the probation, the Respondent's practice setting changes and the  
15 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent  
16 shall notify the Board or its designee within 5 calendar days of the practice setting change. If  
17 Respondent fails to establish a practice with another physician or secure employment in an  
18 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
19 shall receive a notification from the Board or its designee to cease the practice of medicine within  
20 three (3) calendar days after being so notified. The Respondent shall not resume practice until an  
21 appropriate practice setting is established.

22 7. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS:

23 Within thirty (30) calendar days of the effective date of this Decision, and on whatever  
24 periodic basis thereafter as may be required by the Board or its designee, respondent shall  
25 undergo and complete a clinical diagnostic evaluation, including any and all testing deemed  
26 necessary, by a Board-appointed board certified physician and surgeon. The examiner shall  
27 consider any information provided by the Board or its designee and any other information he or  
28 she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

1           The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon  
2 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of  
3 physicians and surgeons with substance abuse disorders, and is approved by the Board or its  
4 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable  
5 professional standards for conducting substance abuse clinical diagnostic evaluations. The  
6 evaluator shall not have a current or former financial, personal, or business relationship with  
7 respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
8 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the  
9 evaluator's opinion, whether respondent has a substance abuse problem, whether respondent is a  
10 threat to himself or others, and recommendations for substance abuse treatment, practice  
11 restrictions, or other recommendations related to respondent's rehabilitation and ability to  
12 practice safely. If the evaluator determines during the evaluation process that respondent is a  
13 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of  
14 such a determination.

15           In formulating his or her opinion as to whether respondent is safe to return to either part-  
16 time or full-time practice and what restrictions or recommendations should be imposed, including  
17 participation in an inpatient or outpatient treatment program, the evaluator shall consider the  
18 following factors: respondent's license type; respondent's history; respondent's documented  
19 length of sobriety (i.e., length of time that has elapsed since respondent's last substance use);  
20 respondent's scope and pattern of substance abuse; respondent's treatment history, medical  
21 history and current medical condition; the nature, duration and severity of respondent's substance  
22 abuse problem or problems; and whether respondent is a threat to himself or the public.

23           For all clinical diagnostic evaluations, a final written report shall be provided to the Board  
24 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator  
25 requests additional information or time to complete the evaluation and report, an extension may  
26 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally  
27 assigned the matter.

28           The Board shall review the clinical diagnostic evaluation report within five (5) business

1 days of receipt to determine whether respondent is safe to return to either part-time or full-time  
2 practice, and what restrictions or recommendations shall be imposed on respondent based on the  
3 recommendations made by the evaluator. Respondent shall not be returned to practice until he  
4 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating  
5 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
6 defined in section 1361.51, subdivision (c), of Title 16 of the California Code of Regulations (a  
7 copy of which is attached as Exhibit B and incorporated herein by reference).

8 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
9 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
10 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
11 designee, shall be borne by the licensee.

12 Respondent shall not engage in the practice of medicine until notified by the Board or its  
13 designee that he is fit to practice medicine safely. The period of time that respondent is not  
14 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
15 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
16 while awaiting the notification from the Board if he is fit to practice medicine safely.

17 Respondent shall comply with all restrictions or conditions recommended by the examiner  
18 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
19 by the Board or its designee.

20 8. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION

21 Within seven (7) days of the effective date of this Decision, respondent shall provide to the  
22 Board the names, physical addresses, mailing addresses, and telephone numbers of any and all  
23 employers and supervisors. Respondent shall also provide specific, written consent for the Board,  
24 respondent's worksite monitor, and respondent's employers and supervisors to communicate  
25 regarding respondent's work status, performance, and monitoring.

26 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
27 Well Being Committee Chair, or equivalent, if applicable, when the respondent has medical staff  
28 privileges.

1           9.    BIOLOGICAL FLUID TESTING

2           Respondent shall immediately submit to biological fluid testing, at respondent's expense,  
3 upon request of the Board or its designee. "Biological fluid testing" may include, but is not  
4 limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by  
5 the Board or its designee. Respondent shall make daily contact with the Board or its designee to  
6 determine whether biological fluid testing is required. Respondent shall be tested on the date of  
7 the notification as directed by the Board or its designee. The Board may order a respondent to  
8 undergo a biological fluid test on any day, at any time, including weekends and holidays. Except  
9 when testing on a specific date as ordered by the Board or its designee, the scheduling of  
10 biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall  
11 be borne by the respondent.

12           During the first year of probation, respondent shall be subject to 52 to 104 random tests.  
13 During the second year of probation and for the duration of the probationary term, up to five (5)  
14 years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
15 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
16 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
17 of random tests to the first-year level of frequency for any reason.

18           Prior to practicing medicine, respondent shall contract with a laboratory or service,  
19 approved in advance by the Board or its designee, that will conduct random, unannounced,  
20 observed, biological fluid testing and meets all the following standards:

- 21           (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
22 Association or have completed the training required to serve as a collector for the United  
23 States Department of Transportation.  
24           (b) Its specimen collectors conform to the current United States Department of  
25 Transportation Specimen Collection Guidelines  
26           (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
27 by the United States Department of Transportation without regard to the type of test  
28 administered.

1 (d) Its specimen collectors observe the collection of testing specimens.

2 (e) Its laboratories are certified and accredited by the United States Department of Health  
3 and Human Services.

4 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
5 of receipt and all specimens collected shall be handled pursuant to chain of custody  
6 procedures. The laboratory shall process and analyze the specimens and provide legally  
7 defensible test results to the Board within seven (7) business days of receipt of the  
8 specimen. The Board will be notified of non-negative results within one (1) business day  
9 and will be notified of negative test results within seven (7) business days.

10 (g) Its testing locations possess all the materials, equipment, and technical expertise  
11 necessary in order to test respondent on any day of the week.

12 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
13 for the detection of alcohol and illegal and controlled substances.

14 (i) It maintains testing sites located throughout California.

15 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
16 computer database that allows the respondent to check in daily for testing.

17 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
18 access to drug test results and compliance reporting information that is available 24 hours a  
19 day.

20 (l) It employs or contracts with toxicologists that are licensed physicians and have  
21 knowledge of substance abuse disorders and the appropriate medical training to interpret  
22 and evaluate laboratory biological fluid test results, medical histories, and any other  
23 information relevant to biomedical information.

24 (m) It will not consider a toxicology screen to be negative if a positive result is obtained  
25 while practicing, even if the respondent holds a valid prescription for the substance.

26 Prior to changing testing locations for any reason, including during vacation or other travel,  
27 alternative testing locations must be approved by the Board and meet the requirements above.

28 The contract shall require that the laboratory directly notify the Board or its designee of

1 non-negative results within one (1) business day and negative test results within seven (7)  
2 business days of the results becoming available. Respondent shall maintain this laboratory or  
3 service contract during the period of probation.

4 A certified copy of any laboratory test result may be received in evidence in any  
5 proceedings between the Board and respondent.

6 If a biological fluid test result indicates respondent has used, consumed, ingested, or  
7 administered to himself a prohibited substance, the Board shall order respondent to cease practice  
8 and instruct respondent to leave any place of work where respondent is practicing medicine or  
9 providing medical services. The Board shall immediately notify all of respondent's employers,  
10 supervisors and work monitors, if any, that respondent may not practice medicine or provide  
11 medical services while the cease-practice order is in effect.

12 A biological fluid test will not be considered negative if a positive result is obtained while  
13 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
14 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

15 After the issuance of a cease-practice order, the Board shall determine whether the positive  
16 biological fluid test is in fact evidence of prohibited substance use by consulting with the  
17 specimen collector and the laboratory, communicating with the licensee, his or her treating  
18 physician(s), other health care provider, or group facilitator, as applicable.

19 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the  
20 acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

21 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
22 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
23 respondent and approved by the Board, alcohol, or any other substance the respondent has been  
24 instructed by the Board not to use, consume, ingest, or administer to himself.

25 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
26 substance, respondent has committed a major violation, as defined in 16 CCR § 1361.52(a) (a  
27 copy of which is attached as Exhibit B and incorporated herein by reference), and the Board shall  
28 impose any or all of the consequences set forth in 16 CCR § 1361.52(b)(a copy of which is

1 attached as Exhibit B and incorporated herein by reference), in addition to any other terms or  
2 conditions the Board determines are necessary for public protection or to enhance respondent's  
3 rehabilitation.

4 10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS

5 Within thirty (30) days of the effective date of this Decision, respondent shall submit to the  
6 Board or its designee, for its prior approval, the name of a substance abuse support group which  
7 he shall attend for the duration of probation. Respondent shall attend substance abuse support  
8 group meetings at least once per week, or as ordered by the Board or its designee. Respondent  
9 shall pay all substance abuse support group meeting costs.

10 The facilitator of the substance abuse support group meeting shall have a minimum of three  
11 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed  
12 or certified by the state or nationally certified organizations. The facilitator shall not have a  
13 current or former financial, personal, or business relationship with respondent within the last five  
14 (5) years. Respondent's previous participation in a substance abuse group support meeting led by  
15 the same facilitator does not constitute a prohibited current or former financial, personal, or  
16 business relationship.

17 The facilitator shall provide a signed document to the Board or its designee showing  
18 respondent's name, the group name, the date and location of the meeting, respondent's  
19 attendance, and respondent's level of participation and progress. The facilitator shall report any  
20 unexcused absence by respondent from any substance abuse support group meeting to the Board,  
21 or its designee, within twenty-four (24) hours of the unexcused absence.

22 11. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE

23 Within thirty (30) calendar days of the effective date of this Decision, respondent shall  
24 submit to the Board or its designee for prior approval as a worksite monitor, the name and  
25 qualifications of one or more licensed physician and surgeon, other licensed health care  
26 professional if no physician and surgeon is available, or, as approved by the Board or its designee,  
27 a person in a position of authority who is capable of monitoring the respondent at work.

28 The worksite monitor shall not have a current or former financial, personal, or familial

1 relationship with respondent, or any other relationship that could reasonably be expected to  
2 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
3 designee.

4 If it is impractical for anyone but respondent's employer to serve as the worksite monitor,  
5 this requirement may be waived by the Board or its designee, however, under no circumstances  
6 shall respondent's worksite monitor be an employee or supervisee of the licensee.

7 The worksite monitor shall have an active unrestricted license with no disciplinary action  
8 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
9 and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by  
10 the Board or its designee.

11 Respondent shall pay all worksite monitoring costs.

12 The worksite monitor shall have face-to-face contact with respondent in the work  
13 environment on as frequent a basis as determined by the Board or its designee, but not less than  
14 once per week; interview other staff in the office regarding respondent's behavior, if requested by  
15 the Board or its designee; and review respondent's work attendance.

16 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
17 respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
18 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
19 be made to the Board or its designee within one (1) hour of the next business day. A written  
20 report that includes the date, time, and location of the suspected abuse; respondent's actions; and  
21 any other information deemed important by the worksite monitor shall be submitted to the Board  
22 or its designee within 48 hours of the occurrence.

23 The worksite monitor shall complete and submit a written report monthly or as directed by  
24 the Board or its designee which shall include the following: (1) respondent's name and  
25 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
26 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
27 worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the  
28 names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance;

1 (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can  
2 lead to suspected substance abuse by respondent. Respondent shall complete any required  
3 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
4 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

5 If the worksite monitor resigns or is no longer available, respondent shall, within five  
6 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
7 approval, the name and qualifications of a replacement monitor who will be assuming that  
8 responsibility within fifteen (15) calendar days.

9 If respondent fails to obtain approval of a replacement monitor within sixty (60) calendar  
10 days of the resignation or unavailability of the monitor, respondent shall receive a notification  
11 from the Board or its designee to cease the practice of medicine within three (3) calendar days  
12 after being so notified. Respondent shall cease the practice of medicine until a replacement  
13 monitor is approved and assumes monitoring responsibility.

14 12. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
15 LICENSEES

16 Failure to fully comply with any term or condition of probation is a violation of probation.

17 A. If respondent commits a major violation of probation as defined by section  
18 1361.52, subdivision (a), of Title 16 of the California Code of Regulations (a copy of which is  
19 attached as Exhibit B and incorporated herein by reference), the Board shall take one or more of  
20 the following actions:

21 (1) Issue an immediate cease-practice order and order respondent to undergo a  
22 clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision  
23 (c)(1), of Title 16 of the California Code of Regulations (a copy of which is attached as Exhibit B  
24 and incorporated herein by reference), at respondent's expense. The cease-practice order issued  
25 by the Board or its designee shall state that respondent must test negative for at least a month of  
26 continuous biological fluid testing before being allowed to resume practice. For purposes of the  
27 determining the length of time a respondent must test negative while undergoing continuous  
28 biological fluid testing following issuance of a cease-practice order, a month is defined as thirty

1 calendar (30) days. Respondent may not resume the practice of medicine until notified in writing  
2 by the Board or its designee that he or she may do so.

3 (2) Increase the frequency of biological fluid testing.

4 (3) Refer respondent for further disciplinary action, such as suspension,  
5 revocation, or other action as determined by the Board or its designee.

6 B. If respondent commits a minor violation of probation as defined by section  
7 1361.52, subdivision (c), of Title 16 of the California Code of Regulations (a copy of which is  
8 attached as Exhibit B and incorporated herein by reference), the Board shall take one or more of  
9 the following actions:

10 (1) Issue a cease-practice order;

11 (2) Order practice limitations;

12 (3) Order or increase supervision of respondent;

13 (4) Order increased documentation;

14 (5) Issue a citation and fine, or a warning letter;

15 (6) Order respondent to undergo a clinical diagnostic evaluation to be conducted  
16 in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
17 Regulations (a copy of which is attached as Exhibit B and incorporated herein by reference), at  
18 respondent's expense;

19 (7) Take any other action as determined by the Board or its designee.

20 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
21 to revoke respondent's probation if he or she has violated any term or condition of probation. If  
22 respondent violates probation in any respect, the Board, after giving respondent notice and the  
23 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
24 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
25 against respondent during probation, the Board shall have continuing jurisdiction until the matter  
26 is final, and the period of probation shall be extended until the matter is final.

27 13. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to  
2 Respondent, at any other facility where Respondent engages in the practice of medicine,  
3 including all physician and locum tenens registries or other similar agencies, and to the Chief  
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
6 calendar days.

7 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8 14. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
9 prohibited from supervising physician assistants.

10 15. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
11 governing the practice of medicine in California and remain in full compliance with any court  
12 ordered criminal probation, payments, and other orders.

13 16. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
14 under penalty of perjury on forms provided by the Board, stating whether there has been  
15 compliance with all the conditions of probation.

16 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
17 of the preceding quarter.

18 17. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

20 Respondent shall comply with the Board's probation unit and all terms and conditions of  
21 this Decision.

22 Address Changes

23 Respondent shall, at all times, keep the Board informed of Respondent's business and  
24 residence addresses, email address (if available), and telephone number. Changes of such  
25 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
26 circumstances shall a post office box serve as an address of record, except as allowed by Business  
27 and Professions Code section 2021(b).

28 ///

1        Place of Practice

2        Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
4 facility.

5        License Renewal

6        Respondent shall maintain a current and renewed California physician's and surgeon's  
7 license.

8        Travel or Residence Outside California

9        Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
11 (30) calendar days.

12        In the event Respondent should leave the State of California to reside or to practice  
13 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
14 departure and return.

15        18. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
16 available in person upon request for interviews either at Respondent's place of business or at the  
17 probation unit office, with or without prior notice throughout the term of probation.

18        19. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
19 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
20 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
21 defined as any period of time Respondent is not practicing medicine in California as defined in  
22 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
23 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
24 time spent in an intensive training program which has been approved by the Board or its designee  
25 shall not be considered non-practice. Practicing medicine in another state of the United States or  
26 Federal jurisdiction while on probation with the medical licensing authority of that state or  
27 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
28 not be considered as a period of non-practice.

1 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
2 months, Respondent shall successfully complete a clinical training program that meets the criteria  
3 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
4 Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two (2) years.

6 Periods of non-practice will not apply to the reduction of the probationary term.

7 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
8 probationary terms and conditions with the exception of this condition and the following terms  
9 and conditions of probation: Obey All Laws; and General Probation Requirements.

10 20. COMPLETION OF PROBATION. Respondent shall comply with all financial  
11 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
12 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
13 be fully restored.

14 21. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
15 of probation is a violation of probation. If Respondent violates probation in any respect, the  
16 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
17 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
18 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
19 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
20 the matter is final.

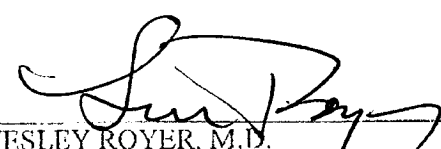
21 22. LICENSE SURRENDER. Following the effective date of this Decision, if  
22 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
23 the terms and conditions of probation, Respondent may request to surrender his or her license.  
24 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
25 determining whether or not to grant the request, or to take any other action deemed appropriate  
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
27 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
28 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
2 application shall be treated as a petition for reinstatement of a revoked certificate.

3 23. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
4 with probation monitoring each and every year of probation, as designated by the Board, which  
5 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
6 California and delivered to the Board or its designee no later than January 31 of each calendar  
7 year.

8  
9  
10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
12 discussed it with my attorney, Theodore A. Cohen. I understand the stipulation and the effect it  
13 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
15 Decision and Order of the Medical Board of California.

16  
17 DATED: Feb 10 2016 

18 LYLE WESLEY ROYER, M.D.  
19 Respondent  
20

21 I have read and fully discussed with Respondent Lyle Wesley Royer, M.D. the terms and  
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

23 I approve its form and content.

24 DATED: 2/10/16 

25 THEODORE A. COHEN  
26 Attorney for Respondent

27 ENDORSEMENT

28 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

1 submitted for consideration by the Medical Board of California.

2 Dated:

3 2/11/16

Respectfully submitted,

4 KAMALA D. HARRIS  
Attorney General of California  
5 E. A. JONES III  
Supervising Deputy Attorney General

6 

7 EDWARD KIM  
8 Deputy Attorney General  
Attorneys for Complainant

9  
10  
11 LA2015602958  
12 61862802.doc

**Exhibit A**

**Accusation No. 800-2015-011162**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Sept 14 20 15  
BY D. Richards ANALYST

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Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-011162

12 **LYLE WESLEY ROYER, M.D.**  
13 **3425 Ocean Park Blvd., Ste 107, PMB P**  
**Santa Monica, CA 90405**

**A C C U S A T I O N**

14 **Physician's and Surgeon's**  
15 **Certificate No. C34553**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
21 Affairs.

22 2. On or about September 11, 1972, the Medical Board of California issued Physician's  
23 and Surgeon's Certificate Number C34553 to Lyle Wesley Royer, M.D. (Respondent). The  
24 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on July 31, 2016, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Medical Board of California (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2227 of the Code provides that a licensee who is found guilty under the  
3 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
4 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
5 action taken in relation to discipline as the Board deems proper.

6 5. Section 2234 of the Code, states:

7 "The board shall take action against any licensee who is charged with unprofessional  
8 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
9 limited to, the following:

10 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
11 violation of, or conspiring to violate any provision of this chapter.

12 "(b) Gross negligence.

13 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
14 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
15 the applicable standard of care shall constitute repeated negligent acts.

16 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
17 for that negligent diagnosis of the patient shall constitute a single negligent act.

18 "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
19 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
20 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
21 applicable standard of care, each departure constitutes a separate and distinct breach of the  
22 standard of care.

23 "(d) Incompetence.

24 "(e) The commission of any act involving dishonesty or corruption which is substantially  
25 related to the qualifications, functions, or duties of a physician and surgeon.

26 "(f) Any action or conduct which would have warranted the denial of a certificate.

27 "(g) The practice of medicine from this state into another state or country without meeting  
28 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not

1 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
2 proposed registration program described in Section 2052.5.

3 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
4 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
5 who is the subject of an investigation by the board.”

6 6. Section 2236 of the Code states:

7 “(a) The conviction of any offense substantially related to the qualifications, functions, or  
8 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this  
9 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive  
10 evidence only of the fact that the conviction occurred.

11 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the  
12 Division of Medical Quality<sup>1</sup> of the pendency of an action against a licensee charging a felony  
13 or misdemeanor immediately upon obtaining information that the defendant is a licensee. The  
14 notice shall identify the licensee and describe the crimes charged and the facts alleged. The  
15 prosecuting agency shall also notify the clerk of the court in which the action is pending that the  
16 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds  
17 a license as a physician and surgeon.

18 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours  
19 after the conviction, transmit a certified copy of the record of conviction to the board. The  
20 division may inquire into the circumstances surrounding the commission of a crime in order to fix  
21 the degree of discipline or to determine if the conviction is of an offense substantially related to  
22 the qualifications, functions, or duties of a physician and surgeon.

23 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to  
24 be a conviction within the meaning of this section and Section 2236.1. The record of conviction  
25 shall be conclusive evidence of the fact that the conviction occurred.”

26 7. Section 2239 of the Code states:

27 <sup>1</sup> Pursuant to Business and Professions Code section 2002, “Division of Medical Quality”  
28 or “Division” shall be deemed to refer to the Medical Board of California.

1       “(a) The use or prescribing for or administering to himself or herself, of any controlled  
2 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
3 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
4 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
5 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
6 consumption, or self-administration of any of the substances referred to in this section, or any  
7 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
8 conclusive evidence of such unprofessional conduct.

9       “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
10 deemed to be a conviction within the meaning of this section. The Division of Medical Quality  
11 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing  
12 may order the denial of the license when the time for appeal has elapsed or the judgment of  
13 conviction has been affirmed on appeal or when an order granting probation is made suspending  
14 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4  
15 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of  
16 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,  
17 information, or indictment.”

18       8. Section 822 of the Code, states:

19       “If a licensing agency determines that its licensee's ability to practice his or her profession  
20 safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the  
21 licensing agency may take action by any one of the following methods:

22       “(a) Revoking the licensee's certificate or license.

23       “(b) Suspending the licensee's right to practice.

24       “(c) Placing the licensee on probation.

25       “(d) Taking such other action in relation to the licensee as the licensing agency in its  
26 discretion deems proper.

27       “The licensing agency shall not reinstate a revoked or suspended certificate or license until  
28 it has received competent evidence of the absence or control of the condition which caused its

1 action and until it is satisfied that with due regard for the public health and safety the person's  
2 right to practice his or her profession may be safely reinstated."

3 9. Section 2238 of the Code states:

4 "A violation of any federal statute or federal regulation or any of the statutes or regulations  
5 of this state regulating dangerous drugs or controlled substances constitutes unprofessional  
6 conduct."

7 10. Section 11170 of the Health and Safety Code states:

8 "No person shall prescribe, administer, or furnish a controlled substance for himself."

9 11. California Code of Regulations, title 16, section 1360, states:

10 "For the purposes of denial, suspension or revocation of a license, certificate or permit  
11 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
12 considered to be substantially related to the qualifications, functions or duties of a person holding  
13 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
14 evidences present or potential unfitness of a person holding a license, certificate or permit to  
15 perform the functions authorized by the license, certificate or permit in a manner consistent with  
16 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
17 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
18 violation of, or conspiring to violate any provision of the Medical Practice Act."

### 19 **FACTUAL ALLEGATIONS**

20 12. On or about September 24, 2014, at approximately 9:30 p.m., an officer of the Santa  
21 Monica Police Department responded to a radio call that Respondent was loitering in a vehicle in  
22 front of 2272 24<sup>th</sup> Street in Santa Monica, California. Upon arriving, the officer observed  
23 Respondent in front of his car (a white 2009 Ford); Respondent appeared to be confused. When  
24 the officer approached Respondent, the officer noticed several bottles of alcoholic beverages in  
25 the backseat of the vehicle. Within arms length of the Respondent was an open bottle of vodka  
26 that was 90 percent full. Respondent could not initially respond to the officer's questions and  
27 appeared confused. Eventually, Respondent stated that he wanted to leave, but first needed to  
28 sleep in his car. The officer observed that Respondent's speech was thick and slurred. Although

1 the officer asked Respondent to exit his vehicle, for approximately 10 minutes, Respondent  
2 attempted to get up, but fell back into the seat of his car several times. The officer assisted  
3 Respondent out of his car and his balance was very unstable. The officer asked Respondent to  
4 lock his vehicle several times, but he could not understand. The officer asked Respondent to  
5 walk away from his vehicle, but Respondent could not walk. He appeared to be unfamiliar with  
6 the area and could not walk away. Based upon Respondent's objective symptoms, his level of  
7 confusion and poor balance, the officer concluded that Respondent was under the influence of  
8 alcohol. Respondent was unable to care for his safety and did not have an adult who could care  
9 for him. The officer placed Respondent under arrest for violating Penal Code section 647,  
10 subdivision (f) (public intoxication).

11 13. On or about October 31, 2014, at approximately 10:40 p.m., two officers of the Los  
12 Angeles Police Department (LAPD) received a call to respond to a driving under the influence  
13 (DUI) traffic collision at 10623 Venice Blvd., Los Angeles, CA 90034 (the location of a  
14 McDonald's fast food franchise). A witness explained the Respondent appeared to be having  
15 difficulty driving at McDonald's. He stated that Respondent made several attempts to get back in  
16 his vehicle but was having difficulty moving around. At the scene, the officers observed  
17 Respondent standing outside of his vehicle, with the keys in the ignition and he was being tended  
18 to by the Los Angeles Fire Department. Upon making contact with Respondent, an LAPD officer  
19 could smell a strong odor of an alcoholic beverage emitting from his person and also his eyes  
20 were bloodshot. Respondent stated he was trying to get some food at the McDonald's drive-thru.  
21 Respondent stated he had difficulty turning the corner around the building for the drive-thru and  
22 stopped past the drive-thru window. At approximately 11:00 p.m., an officer administered the  
23 field sobriety test to Respondent and due to his displaying the objective symptoms of DUI, and  
24 exhibiting psychophysical impairment, the officer formed the opinion that Respondent was under  
25 the influence of an intoxicant and unable to safely operate a motor vehicle in violation of Vehicle  
26 Code section 23152 (A). Respondent was transported back to the Pacific station for further  
27 investigation. While at the Pacific station, Respondent was administered the breathalyzer test.  
28 On his second attempt, the BAC readings were .11% and .11%.

14. On or about November 14, 2014, in Los Angeles County Superior Court in case number 4WA01926, entitled *People vs. Lyle Royer*, Respondent was charged with driving under the influence. Thereafter, on or about January 13, 2015, the complaint was amended to add a violation of Vehicle Code section 23103 (Count 3), misdemeanor, and Respondent was convicted, upon his plea of nolo contendere, of violating Count 3 (Vehicle Code section 23103 (driving a vehicle on a highway or in an off-street parking facility, with wanton disregard for the safety of persons or property)). The remaining charges were dismissed.

15. Respondent was sentenced to probation for a period of 36 months, with terms and conditions, including, among other things, that Respondent enroll in an alcohol and other drug education and counseling program, pay fines and fees, serve 13 days in jail, be prohibited from driving a motor vehicle with any intoxicant in his body, and submit to and complete tests of breath, blood, urine, or saliva when requested by a peace officer.

**ORDER DATED June 25, 2015**

16. On June 25, 2015, the Board issued an order requiring that Respondent submit to a mental and physical evaluation, a true and correct copy of which is attached hereto as Exhibit 1, and incorporated herein as if fully set forth.

## INTERVIEW

17. On or about July 27, 2015, an investigator with the Department of Consumer Affairs interviewed Respondent. He admitted to a history of drinking alcohol and to current use of Valium (diazepam), a benzodiazepine and a California Schedule IV controlled substance, which he obtained from a "friend." Respondent explained that he had been living in an apartment for the past few months but prior to that, he had been homeless. When he was arrested for public intoxication in September 2014, Respondent was staying in his car for the night. He acknowledged his DUI in 1990 and that he had consumed several drinks before driving home from a date on that occasion. He also explained that he was an aspiring writer and that "writers drink." He started to drink heavily when he left the full-time practice of radiology to focus on writing. He was also drinking heavily in the year prior to the November 2014 DUI arrest.

///

## PSYCHIATRIC EVALUATION

18. On July 28, 2015, Respondent met for over two and a half hours with N.L., M.D., board certified in Psychiatry and Neurology. Respondent reported a history of periods of daily alcohol use to Dr. N.L. over the past ten years, although there were also periods of sobriety. Respondent also explained that he had a recent period of homelessness and binge drinking. However, Respondent stated that by Christmas 2014, he stopped drinking and was no longer homeless. Respondent also reported that he lived in an apartment for the past four months. Respondent told Dr. N.L. that he has a Valium prescription which he took five days prior. However, a CURES report of Respondent for the past year did not list Valium.

19. Although Dr. N.L. found that Respondent could safely practice medicine, he also found that Respondent required "monitoring, treatment, oversight and other terms and conditions" in order to practice. He also recommended that Respondent refrain from taking any benzodiazepines or other medications that could be abused.

## PHYSICAL EVALUATION

20. In or around August 10, 2015, Respondent met for approximately 70 minutes with J.G., M.D., board certified in Internal Medicine and Addiction Medicine. According to Dr. J.G., Respondent was more coherent during his subject interview on July 27, 2015 with the Department of Consumer Affairs investigator than when Dr. J.G. questioned him. During his interview with Dr. J.G., Respondent exhibited varying levels of cognitive impairment. Dr. J.G. believes that Respondent suffers from substantial cognitive impairment due to dementia, which is probably due to alcohol and that neuropsychological testing is required to determine whether Respondent could practice medicine safely.

## FIRST CAUSE FOR DISCIPLINE

### (Dangerous Use of Alcohol and Self Use of Controlled Substance)

21. Respondent is subject to disciplinary action under section 2239 of the Code, in that he used, prescribed, or administered to himself a controlled substance and/or alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself, or to any other person or to the public, and/or to an extent that such use impaired his ability to practice medicine safely.

1 The circumstances are as follows:

2 22. The allegations in paragraphs 12 through 20, inclusive above are incorporated herein  
3 by reference as if fully set forth.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Conviction of Substantially Related Crimes)**

6 23. Respondent is subject to disciplinary action under sections 2236 and 490, of the  
7 Code, in that he was convicted of offenses substantially related to the qualifications, functions, or  
8 duties of a physician. The circumstances are as follows:

9 24. The allegations of the First Cause for Discipline are incorporated herein by reference  
10 as if fully set forth.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Violation of Drug Statute)**

13 25. Respondent is subject to disciplinary action under section 2238 of the Code and  
14 11170 of the Health and Safety Code in that Respondent administered a controlled substance to  
15 himself. The circumstances are as follows:

16 26. The allegations of the First and Second Causes for Discipline are incorporated herein  
17 by reference as if fully set forth.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unable to Practice Safely Due to Mental Disorder)**

20 27. Respondent is subject to discipline pursuant to Business and Professions Code section  
21 822 in that his ability to practice medicine safely is impaired because he is mentally or physically  
22 ill in a manner affecting competency. The circumstances of Respondent's mental illness are as  
23 follows:

24 28. The allegations of the First, Second and Third Causes for Discipline are incorporated  
25 herein by reference as if fully set forth.

26 **FIFTH CAUSE FOR DISCIPLINE**

27 **(General Unprofessional Conduct)**

28 29. Respondent is subject to disciplinary action under section 2234 of the Code,

1 generally, in that he committed unprofessional conduct. The circumstances are as follows:

2 30. The allegations of the First, Second, Third and Fourth Causes for Discipline are  
3 incorporated herein by reference as if fully set forth.

4 **DISCIPLINE CONSIDERATIONS**

5 31. To determine the degree of discipline, if any, to be imposed on Respondent,  
6 Complainant alleges that Respondent has a history of alcohol related misconduct, which involves  
7 the allegations similar to those in the present pleading.

8 32. On or about March 28, 1991, in the Superior Court for the County of Los Angeles, in  
9 proceedings entitled *People of the State of California vs. Lyle Wesley Royer*, case number  
10 90F13047, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle  
11 Code section 23152, subdivision (b). Respondent's blood alcohol content test showed a BAC of  
12 0.17 percent. He was placed on 36 months probation with terms and conditions.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Medical Board of California issue a decision:

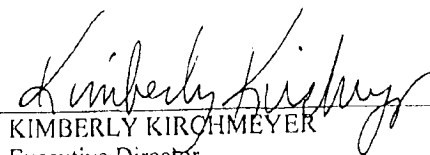
16 1. Revoking or suspending Physician's and Surgeon's Certificate Number C34553,  
17 issued to Lyle Wesley Royer, M.D.;

18 2. Revoking, suspending or denying approval of Lyle Wesley Royer, M.D.'s authority  
19 to supervise physician assistants, pursuant to section 3527 of the Code;

20 3. Ordering Lyle Wesley Royer, M.D. to pay the Medical Board of California, if placed  
21 on probation, the costs of probation monitoring; and

22 4. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: September 16, 2015

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

## **EXHIBIT 1**

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 EDWARD KIM  
Deputy Attorney General  
4 State Bar No. 195729  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-7336  
Facsimile: (213) 897-9395  
7 *Attorneys for Petitioner*

8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Compel Mental  
and Physical Examination of:

12 **LYLE WESLEY ROYER, M.D.**  
13 **3425 Ocean Park Blvd. Ste. 107 PMB P**  
14 **Santa Monica, CA 90405**

15 **Physician's and Surgeon's**  
**Certificate No. C34553**

16 Respondent.

Case No. 800-2015-011162

**[PROPOSED] ORDER COMPELLING A**  
**MENTAL AND PHYSICAL**  
**EXAMINATION**

[Bus. & Prof. Code, § 820]

18 The Executive Director of the Medical Board of California (Board) having petitioned the  
19 Board for an order pursuant to Business and Professions Code section 820 to compel LYLE  
20 WESLEY ROYER, M.D. (Respondent), Physician and Surgeon Certificate No. C34553, to  
21 undergo a mental examination and/or a physical examination, and having read and considered all  
22 the documents on file herein, it appears to the Board that Respondent may be unable to practice  
23 medicine safely because his ability to practice is impaired due to mental illness, and/or physical  
24 illness affecting competency.

25 IT IS HEREBY ORDERED pursuant to Business and Professions Code section 820 that:

26 1. Respondent Lyle Wesley Royer, M.D., shall submit to a mental examination and a  
27 physical examination by one or more physicians and surgeons, all designated by the Board or its  
28 designee, in order to determine whether he is impaired due to a mental and/or physical illness that

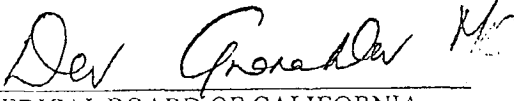
1 affects his competency to practice medicine safely;

2 2. The examination(s) shall be conducted at a time convenient to Respondent and the  
3 examiner(s), and no later than thirty (30) days from the date of service of this Order;

4 3. The examiner(s) shall prepare a detailed written report(s) of the findings and  
5 conclusions of his/her/their examination(s). The report(s) of the examiner(s) may be received as  
6 direct evidence in any administrative proceedings that may be filed as a result of these  
7 examinations.

8 4. Any failure of Respondent to comply with this order shall constitute grounds for  
9 disciplinary action suspending or revoking his physician's and surgeon's certificate pursuant to  
10 Business and Professions Code sections 821, 2220 and 2234.

11  
12 IT IS SO ORDERED THIS 25th DAY OF June, 2015.

13   
14 MEDICAL BOARD OF CALIFORNIA  
15 Dev GnanaDev, M.D., Chair  
16 Panel B  
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